

ADMINISTRATION OF AUSTRALIAN FOREIGN

INVESTMENT POLICY

The Treasurer is responsible for the administration of the Government's foreign investment policy. In this task he is advised by the Foreign Investment Review Board.

The Board's main functions are:

- to advise the Government on foreign investment matters generally;
- to foster an awareness and understanding of the Government's policy in the community at large and in the private enterprise sector in particular;
- to give guidance to foreign investors on those aspects of their proposals that may not be in conformity with policy and suggest ways by which such proposals might be amended;
- to work towards a high level of Australian participation in new investment undertakings;
- to establish liaison with State Government authorities; and
- to keep in touch with the activities of foreign-controlled businesses operating in Australia.

In undertaking these tasks, the Board is assisted by the Foreign Investment Division of the Commonwealth Treasury which acts as its Executive. Other Government agencies are consulted as appropriate.

Proposals Which Should be Submitted to the Foreign Investment Review Board

The Board examines certain types of proposals by foreign interests to invest in Australia.

A foreign interest is defined as:

- a natural person not ordinarily resident in Australia;
- a foreign-controlled corporation or business; or
- any corporation or business in which there is a substantial foreign interest regardless of whether the corporation or business is foreign-controlled. ('Substantial interest' is defined in section 9 of the Foreign Takeovers Act and covers a holding of 15 per cent or more of the issued shares or voting power of a company by a single or associated foreign interests, of 40 per cent or more in aggregate by two or more foreign interests).

The following categories of proposals by foreign interests should be submitted for examination:

(a) Proposals falling within the scope of the Foreign Takeovers Act. These include:

- (i) any acquisition or issue of shares which would result in or increase a substantial interest in an existing Australian company;
- (ii) any acquisition of an Australian business by the purchase of assets;
- (iii) any agreement (including alteration of Articles of Association) that would give a substantial foreign shareholder in an Australian business rights to representation on the board of that business; and
- (iv) any arrangement relating:
 - to the leasing or the granting of other rights to use assets of an Australian business;
 - to participation in the management or profits of an Australian business.

It is the practice of the Government not to intervene, except in special circumstances, in proposals where the total assets of the target company or business are less than \$2 million.

(b) Investment proposals not coming under the Foreign Takeovers Act but falling within the following categories:

- (i) all proposals to establish a new business or project, irrespective of size, in industries subject to special restrictions; namely, finance, insurance, the media, civil aviation, uranium and activities relating to uranium;
- (ii) direct investments by foreign governments or their agencies (i.e. excluding portfolio investments or investments related to their official representation);
- (iii) other proposals to establish new businesses, where the total amount of the investment is \$5 million or more (including diversification into activities not previously undertaken directly in Australia and new projects in mining or other natural resource industries); and
- (iv) proposals to acquire real estate valued at \$250 000 or more (see detailed provisions p. 16).